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ABSTRACT

Awareness of, and accord with, the requirements of the law are only a part of the process of making rights and responsibilities meaningful. Sensitive, forward-looking school administrators should seize the day to eliminate a potential cause of future disruptions, with attendant confrontation politics, by establishing procedural due process -- PDP for students -- to give real meaning to the professed commitment to the rights embraced in substantive due process. The full flowering of student rights will lead inevitably to recognition of, and reaction to, student responsibilities. Implied is the concept that students have the right to participate in the development of a code of conduct that spells out both rights and responsibilities. Meaningful student responsibilities will depend upon meaningful educational programs conducted by well qualified teachers under the direction of unquestionably competent administrators. (Author)

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AMERICAN ASSOCIATION OF SCHOOL ADMINISTRATORS
106th ANNUAL CONVENTION
ATLANTIC CITY, N.J. FEBRUARY 22-26, 1974

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TOPIC: MAKING STUDENT RIGHTS AND RESPONSIBILITIES MEANINGFUL

TIME: Sunday, 2:30 PM, February 24, 1974

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The subject that we meet to consider this afternoon - "Making Student Rights and Responsibilities Meaningful" - lends itself to more than one approach. Because I am a lawyer who has turned professionally to education, it is understandable that you might expect a strictly legalistic presentation to be forthcoming. Not so. Although they are something to be reckoned with, it is not my purpose to focus on the legal aspects of student rights and responsibilities.

Awareness of, and accord with, the requirements of the law are only a part of the process of making rights and responsibilities meaningful. And how to make them meaningful is the task to which we address ourselves in this gathering. (There will be more emphasis on the legal questions involved, for those who may be interested, in a closed circuit TV program that will take place at 4:30 PM tomorrow on "Constitutional Rights of Children.")

I believe that our major concerns are where we ought to be with respect to student rights and responsibilities, how to get there, and the consequences that may ensue if we fail to do so. It is my intention to talk mainly in these terms for about 25 minutes. Dialogue among panel members will follow. And then there will be ample opportunity, I understand, for comments and questions from others present. In short, I would hope that we can use most of our time together in a wide open, free flowing conversation about a matter of sufficient importance to cause us to foregather at 2:30 on a Sunday afternoon amidst a blizzard of attractions and distractions.

My job at this point, as I see it, is to lay a foundation for this conversation. With that in mind, I want to underscore the fact that schools, and the educational programs and administrative procedures taking place within them, mirror societal norms, values and standards. And statutory law, it is timely to recall, represents the codification of established standards of behavior.

What kind of a society are we a part of today? We are supposed to have a society of even-handed justice. But do we? Are the scales of justice in balance between tax-paying wage earners and tax-dodging millionaires? Are the penalties for criminal conduct consistently applied to the anonymous man-in-the-street and to high government officials? Is everyone hauled, and fined, for a parking violation the same way that you and I are? And is alcoholic indulgence by over-age 30 adults (our biggest drug problem) or cigarette smoking by exemplars of youthful behavior (a killer for sure) viewed in the same legal terms as the use of marijuana by younger citizens?

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I feel sure that you found yourselves mentally answering these questions just as quickly as I posed them. And the answers add up, in my mind's ear, to the harshly grating reverberation of a single word: Hypocrisy. According to Webster's Collegiate, the word "Hypocrisy" is defined in part as "a feigning to be what one is not or to believe what one does not" or "the false assumption of an appearance of virtue." What this means, as I see it, is that we compound the tragedy of unequal justice by hypocritical pretension that what is, is not, thus adding a psychological layer of complexity that beggars efforts to effect solutions to a critical problem.

Now if that's the way it is - and I'll argue the point if necessary - what are we doing about it? When was the last time, Watergate aside, that you saw anyone fighting City Hall and coming up winners? Small wonder, I suggest, that Mr. and Ms. U.S.Citizen suffer a sense of helplessness and, as opinion polls clearly show, a growing cynicism about the institutions that form the framework of our society. Doesn't this explain, at least in part, the loneliness of the crowd? And isn't the isolation of each person, harassed by mind-boggling leaps in the cost of living and evaporating energy; isn't this isolation subtly coerced by an alienating tool of modern technology that destroys dialogue and obscures the vital distinction between fact and fiction? I refer, as you have surmised, to the easy-to-manipulate, but hard-to-understand, demanding depiction of behavioral models - the box with the buttons: TV.

This kind of a cultural climate certainly doesn't make the work of school administrators and teachers anything else but increasingly difficult. But that's a self-serving statement educators can stand on only if they bring themselves to buck the tide, rather than drift along with the prevailing currents, of contemporary attitudes. This means, to begin with, that a school must be identifiable with the aspirations of forces trying to fight City Hall, not with the vested interests of those who occupy positions of political power - not with City Hall itself. Otherwise there would appear to be no alternative than to admit that we are engaged in an activity - call it "ed biz" - to socialize young people to accomodate to the realities of the environment, no matter how sordid or unseemly these realities may be.

The term "ed biz" nettles me, and I suppose the reason is that it tells me something I don't like the sound of. I didn't retire from "biz biz" with the idea of hooking up with an "ed biz." But I recognize a degree of validity in the charge, which may account for my special interest in student rights and responsibilities as a means to make something better happen for kids.

About 200 years ago some folks in this part of the land dared to dream of a society of men and women with the capability for self-government developed through compulsory education. (Alas, even that beautiful dream suffered from the blight of inequality, racially and sexually.) Later on, with the adoption of the first amendment, the rationale for mandatory schooling was clearly to be seen. And in 1868, upon ratification of the fourteenth, the several states were bound to honor the constitutional protections of the first - religion -speech, press, assembly, petition - as well as provide for due process of law and the equal protection of the laws. Education, of course, was not only a function of state government subject to such constraints, but, more importantly, was expected to generate in each child an appreciation of the precious rights of citizenship.

This fundamental goal of education stands out as much today as at any time in the past.

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Consider the results of New Jersey's statewide needs assessment program, called "Our Schools," in which 6,000 citizens were involved over a two year period. Two sets of goals, outcome and process, adopted by the State Board of Education in 1972, provide in part that the public schools should help every person:

- to become an effective and responsible contributor to the decision-making processes of the political and other institutions of the community, state, country and world.
- to acquire an understanding of ethical principles and values and the ability to apply them to his/her own life.

And it is further provided that the public schools should:

- insure that all instruction bears a meaningful relationship to the present or future needs and/or interests of students.
- insure that each student has significant opportunities, consistent with his/her age, for helping to determine the nature of his/her educational experiences.
- insure that teachers and students have significant opportunities for participating in the decisions affecting the operations of the schools they work in or attend.

The official policy of New Jersey, similar to many states, leaves no room for doubt about the necessity of fully developing the rights and responsibilities of students. How can there be any other way, for example, of helping a student to become "an effective and responsible contributor to the decision-making processes of the political and other institutions?"

I'm reasonably sure that there is no argument on this score. But something is missing- or else why are we here? There are rights and responsibilities, one might be heard to say but they are not meaningful. And if they are meaningless, the question is why?

I suggest that the reason may lie in our treatment of the matter, dealing more with form than substance, paying lip-service to a concept in order to oblige those who press for progress. And the latter, of course, includes the courts. The Supreme Court of the United States may have been thinking in these terms in 1943 when it said:

> THE FOURTEENTH AMENDMENT... protects the citizen against the state itself and all of its creatures - The Board of Education not excepted...That (Boards of Education) are educating the young for citizenship is reason for scrupulous protection of constitutional freedoms of the individual, if we are not to strangle the free mind at its source and teach youth to discount important principles of our government as mere platitudes.

These constitutional freedoms, we all know, do not stop at the schoolhouse gate, but what are we doing with them inside the gate? Many state education departments have issued guidelines on student rights and responsibilities. In New Jersey the official publication covers hair and dress, buttons and armbands, flag salute and pledge of allegiance, distribution of literature, assembly and petition, school records, police in the schools, locker searches, corporal punishment, suspension and expulsion, and appeals. In common with most similar publications, the guide concentrates on the substantive rights of students although there is reference to due process in provisions concerning suspension and expulsion, i.e., disciplinary action initiated by school authorities.

It is also essential to consider, I submit, the requirements of due process when a student feels that there has been a violation of his or her rights as established by the Supreme Court in constitutional interpretations. Litigation, of course, is the recourse available to students in the absence of adequate provisions for due process within a school. I refer to such provisions by the term procedural due process - or PDP for students.

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Some school administrators and board members insist that their districts have always maintained adequate provisions for procedural due process. Others, however, may share the strong dissent of Marker and Mehlinger:

> The typical high school employs people who listen to but do not act upon the grievances of students. There is no ombudsman to intervene on behalf of the students with the bureaucracy. Counselors are really tools of administrators, despite the professional ideology of counseling. Who can a student complain to if his teacher is incompetent, is lazy, is a racist? A student must either accomodate himself to the situation or rebel - silently, by dropping out of school or by turning in poor work or overtly, by setting fire to trash cans or triggering fire alarms. Due process is not available to students. When students are accused by teachers of violations of school rules, they already stand convicted. There is no presumption of innocence until evidence is heard. No witnesses are called: no opportunity is afforded the student to defend himself.

There has been significant progress, subsequent to the cirticism of Marker and Mehlinger in 1970, in providing for due process when students are accused of violations of school rules. With respect to alleged violations of student rights, however, no comparable concern for the requirements of procedural due process is evident.

The State Board of Education in New Jersey expressed its concern for procedural due process in a communication to all school districts almost five years ago. After first noting that "any disruption of the schools or interference with their normal operation.. cannot be condoned or tolerated, " The Board had this to say:

> At the same time, from the standpoint of justice, we must recognize that... students should have some means by which their concerns may be effectively expressed, considered and disposed of fairly.
> ...The State Board strongly recommends that local boards of education formulate and implement procedures ... by which pupils and their parents may make known their concerns and have them considered and disposed of fairly.

I regret to say that, with rare exceptions, the 700 school districts in New Jersey still have only the most rudimentary procedures for dealing with student grievances. The lack of adequate provisions for procedural due process for students in New Jersey, as well as in other states, is probably accounted for by the relative peace and quiet that has generally characterized the educational scene since 1969-70. Many schoolmen may have a let-well-enough-alone attitude, even if well-enough means a student body turned from disruptive behavior to sullen hostility, widespread apathy, and passivity bordering on oblivion. Most educators, of course, are anxious about students who tune out and turn off, whether or not drug abuse is involved, and the more discerning observers recognize that the prevailing calm may be only a period of frozen violence.

It is my conviction that sensitive, forward-looking school administrators will want to seize the day to eliminate a potential cause of future disruptions, with attendant confrontation politics, by establishing procedural due process — PDP for students - to give real meaning to the professed commitment to the rights embraced in substantive due process.

I turn now to consider with you the elements that comprise acceptable PDP for students. What we need to have, as spelled out by Wendell French, are "established procedures for handling complaints and grievances, protection against punative action for using such established procedures, and careful, systematic, and thorough review of the substance of the complaints and grievances." As William G. Scott points out, the judicial function of administrators "has been sub-ordinated to the legislative (policy making) and executive (action-evoking)."

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Appeal systems, according to Scott, "are formalized means through which the modern participant in a bureaucratic organization can 'cry haro' if he feels his rights are jeopardized." ('Haro is a feudal cry to a Lord or King for redress of a wrong.) Such appeal systems, Scott maintains, "may never fully supplant informal methods of settling complaints and ameliorating conflicts (but) the forces of bureaucratization which produce programs of procedural due process will cause administrators to reflect more carefully on their judicial function."

Any worthwhile model of PDP will have several features, as identified by Scott:

- all have the right to seek redress
- The same rules and regulations for using the system apply to everyone.
- The settlements will be determined, recorded, and honored according to the rules of the system.
- The system may be used without fear of prejudice and reprisal.
- In each case the rights, duties, and obligations of members are spelled out in documents...that provide the statutory base of right which if abrogated by an administrative act may be appealed through an internal machinery of organization.
- The principle of non-suspension of administrative decisions during an appeal is firmly grounded...
- The principle of local handling of grievances and complaints is also solidly established...
- Each system is a bypass of the chain of command unilaterally created by the top administrators of the organization...(and) represents a violation of one of the most important classical principles - the unity of command within a determinate hierarchy.
- The (unity of command) principle is violated for the sake of achieving justice in administration through the separation of the judicial and the executive and legislative functions.

The foregoing particulars require the establishment of procedural due process on some basis other than the bureaucratic review that presently obtains in the vast majority of school districts and other institutions. Even when the steps involved in bureaucratic review are set forth in writing, with detailed provisions for time limits, etc., which seldom occurs, such a procedure fails to assure justice in sustaining the rights of students. Bureaucratic review is defective in that the judicial function (hearing and appeal) is not separated from the legislative (board of education) and the executive (superintendent/principal). This situation is the kind that is commonly condemned on the ground that the same parties act as prosecutor, judge and jury.

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If you have come with me this far, it is time to turn our attention to possible models of PDP. First, however, to emphasize the obvious, let me say that the action to develop PDP should involve students, parents, teachers and administrators; all have a vital interest in the matter.

Among possible models my bias tends toward a school court (or grievance committee) composed only of students or, alternatively, of students, parents, teachers and administrators. The important point is that a school court should be organized so as to function in the manner of an independent judiciary. (There is an analogy to be seen in the military where reforms in the wake of World War II led to the establishment of court martials that were no longer under the control and influence of commanding officers).

Another model that can satisfy the requirements of instituional justice is arbitration. This model maintains a separation of the judicial from legislative and executive functions, but it places the decision-making power, as I conceive the model, in the hands of a person or persons outside of the system. There is nothing inherently wrong with such an arrangement, but many of those concerned, including students, may prefer to have PDP provided with internal resolution of issues involving the alleged violation of rights.

The serious limitations of bureaucratic review have been indicated. Many districts may wish to retain such a system of appeals, however, if only as an alternative to a school court or arbitration. In this event it is imperative to refine the procedures to make bureaucratic review as effective as possible.

With the projection of transparencies we can now take a closer look at the three models:

SCHOOL COURT - (1) Student to (2) Staff to (3) School Court to (4) Principal to (5) Superintendent to (6) Board of Education.

(1) Student complains to member of staff alleging violation of student rights.
(2) Staff member receiving complaint promptly tries to resolve it to satisfaction of all concerned.
(3) If complaint is not resolved to satisfaction of student, he may, as a grievant, within five (5) days of receiving proposed resolution of complaint, present to presiding member of school court a grievance that includes, in writing, the following:

A. Name, class schedule, home address and telephone.
B. Brief statement of facts relevant to grievance.
C. Particular right of student allegedly violated.
D. Decision of court desired by student.
E. Names of other students, if any, similarly aggrieved.
F. Staff member to whom complaint was made.
G. Date and time of presenting grievance.

Grievant hands copy of grievance to principal and others involved in situation to which grievance is related. Within seven (7) days of receiving grievance, presiding member convenes school court to hold hearing to receive testimony and other evidence relevant to grievance. The hearing is conducted informally, including such cross-examination as presiding member deems necessary to establish essential facts, and a record is kept to provide for review in event of appeal.

Within five (5) days of conclusion of hearing, presiding member announces decision of

Court, which shall be determined by majority vote of its members, and advises all concerned, including Principal and Superintendent, by copy.

Each high school establishing PDP for students by means of a school court shall determine the composition of the court. Possibilities include the officers of student government or a group consisting of two students elected by the student body, two teachers elected by the faculty, one administrator elected by the administrative staff, one support staff member elected by the support staff, and one parent elected by the parent-teacher association or its equivalent.

(4) If grievant is not satisfied with decision of school court, he may, within five (5) days of receiving such decision, appeal in writing to principal, advising presiding member and Superintendent by copy. In the appeal grievant sets forth reasons for dissatisfaction with decision of the court. Principal reviews record forwarded by the presiding member, consults in his discretion, and announces decision on appeal within seven (7) days of its receipt, advising all concerned including presiding member and Superintendent, by copy.

(5) If grievant is not satisfied with decision of Principal, he may, within five (5) days of receiving such decision, appeal in writing to Superintendent, advising presiding member and Principal by copy.

Superintendent reviews record forwarded by Principal, consults in his discretion, and announces decision on appeal within ten (10) days of its receipt, advising all concerned, including presiding member, Principal and President of Board of Education, by copy.

(5) If grievant is not satisfied with decision of Superintendent, he may, within five (5) days of receiving such decision, appeal in writing to Board of Education, advising presiding member, Principal and Superintendent by copy.

Board of Education reviews record forwarded by Superintendent, consults in its discretion, and announces final decision on appeal (subject to possible further appeal to Commissioner of Education and/or the courts) within ten (10) days of its receipt, advising all concerned by copy.

ARBITRATION - (1) Student to (2) staff to (3) Principal to (4) Arbitrator(S)

(1) Student complains to member of staff alleging violation of student rights.

(2) Staff member receiving complaint promptly tries to resolve it to satisfaction of all concerned.

(3) If complaint is not resolved to satisfaction of student, he may, within five (5) days of receiving proposed resolution of complaint, appeal orally to Principal, who undertakes informally to work out a satisfactory solution to complaint.

(4) If student is not satisfied with solution proposed by Principal, he may, as a grievant, within five (5) days of its receipt, present to arbitrator (or chairman of a panel of arbitrators, as the case may be) a grievance that includes, in writing, the same information as specified in the school court model.

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Grievant hands copies of grievance to Principal and others involved in situation to which grievance is related. Within ten (10) days of receiving grievance, arbitrator (or chairman of the panel) holds hearing to receive testimony and other evidence relevant to grievance. The hearing is conducted informally, including such cross-examination as the arbitrator (or chairman of the panel) deems necessary to establishing essential facts, and a record is kept in event of appeal.

Within five (5) days of conclusion of hearing, arbitrator (or chairman of the panel) announces final decision (subject to possible further appeal to commissioner of education and/or the courts), and advises all concerned, including Principal and Superintendent, by copy.

Each high school establishing PDP for students by means of an arbitrator or arbitrators shall determine upon their designation. Possibilities include one or more members of the community served by the school or a professional source of such service.

BUREAUCRATIC REVIEW - (1) Student to (2) Staff to (3) Principal to (4) Superintendent to (5) Board of Education.

(1) Student complains to member of staff alleging violation of student rights.

(2) Staff member receiving complaint promptly tries to resolve it to satisfaction of all concerned.

(3) If complaint is not resolved to satisfaction of student, he may, as a grievant, within five (5) days of receiving proposed resolution of complaint, present to Principal a grievance that includes, in writing, the same information as specified in the school court model.

Grievant hands copies of grievance to others involved in situation to which grievance is related.

Within seven (7) days of receiving grievance, Principal or his designee holds hearing to receive testimony and other evidence relevant to grievance. The hearing is conducted informally, including such cross-examination as the Principal (or his designee) deems necessary to establish essential facts, and a record is kept in event of appeal.

Within five (5) days of conclusion of hearing, Principal announces decision and advises all concerned, including Superintendent, by copy.

(4) If grievant is not satisfied with decision announced by Principal, he may, within five (5) days of receiving such decision, appeal in writing to Superintendent, advising Principal by copy. In the appeal grievant sets forth reasons for dissatisfaction with decision of the Principal.

Superintendent reviews record forwarded by Principal, consults in his discretion, and announces decision on appeal within ten (10) days of its receipt, advising all concerned, including Principal and President of Board of Education, by copy.

In the event that complaint involves Principal in the first instance, student presents grievance directly to Superintendent and proceedings ensue in accord with (3) above, Superintendent or his designee holding the prescribed hearing.

(5) If grievant is not satisfied with decision of Superintendent, he may, within five (5) days of receiving such decision, appeal in writing to Board of Education, advising Principal and Superintendent by copy.

Board of Education reviews record forwarded by Superintendent, consults in its discretion, and announces final decision on appeal (subject to possible further appeal to commissioner of Education and/or the courts) within ten (10) days of its receipt, advising all concerned by copy.

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In conjunction with these models the following definitions and general provisions are pertinent:

DEFINITIONS

PDP - "PDP" is procedural due process provided for as a fair and reasonable means to receive, consider and act upon the grievance of a student who feels that he or she has suffered a violation of student rights.

STAFF - The "staff" consists of all employees in a high school, including administrators, teachers and support staff.

COMPLAINT - A "complaint" is an allegation of a violation of student rights expressed orally and informally to a member of the staff.

COMPLAINANT - A "complainant" is a student who makes a complaint.

GRIEVANCE - A "grievance" is a written presentation of an unresolved complaint that includes the following information:

A. Name, Class schedule, Home address and telephone.
B. Brief statement of facts relevant to grievance.
C. Particular right of student allegedly violated.
D. Decision desired by student.
E. Names of other students, if any, similarly aggrieved.
F. Staff member to whom complaint was made.
G. Date and time of presenting grievance.

GRIEVANT - A "grievant" is a student who presents a grievance.

HEARING - A "hearing" is a proceeding at which a grievant and others involved in the situation to which a grievance is related, together with any desired representatives and/or witnesses, are heard and evidence received.

PRESIDING MEMBER - The "presiding member" is the member of a school court elected by its members to conduct hearings until such time as a successor is elected.

RECORD - The "record" is an account of what takes place at a hearing kept in sufficient detail, by stenographic transcript or tape recording, to permit thorough review in event of appeal.

GENERAL PROVISIONS

1. No effort will be spared to resolve complaints and grievances at the earliest possible times and at the lowest possible levels.

2. The processing of complaints and grievances will be treated as confidential with no publicity until a final decision has been reached.

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3. All parties involved in complaints and grievances will be free from any recrimination or reprisal.

4. The school will provide facilities to assist students in presenting grievances and making appeals.

5. All elements of the school constituency will participate in the refinement of PDP through periodic evaluations.

6. PDP is intended to augment the functioning of a school Principal and to detract in no way from the proper exercise of his authority.

7. An administrative decision will remain in effect during the course of an appeal related to it.

Up to this point we have focused pretty much on how to give some real meaning to student rights. But there is more to be said in this regard. You will recall my previous reference to progress in developing procedural due process in disciplinary action initiated by school authorities. There has been progress, it is true, and a good deal in some school districts; elsewhere, however, there is undoubtedly much still to be done.

In this context our concern relates to methods of law enforcement where government functions and private interests are involved. As expressed by one court, due process is not a technical concept fixed as to time and place and circumstances. It is, to the contrary, a blend of history and reason and past court decisions. And the task for the court, in any given case, is to determine if school rules and regulations are fair and reasonable and if they have been applied in a fair and reasonable manner. That's the key; reasonableness and fairness under the particular facts and circumstances.

What is reasonable and fair, and thus satisfied the requirements of due processs under the fourteenth amendment, may vary in accordance with the gravity of an alleged offense. As a general rule of procedure, four points should be kept in mind:

1) Notification of charges and the possible consequences if they are proven to be true.
2) Notice of hearing, including expected witnesses and evidence, and reasonable opportunity to prepare a defense.
3) A hearing at which both sides, in an adversary proceeding, present testimony, orally or by affadavit, and other evidence.
4) A fair and impartial decision that provides for the imposition of sanctions only on the basis of substantial evidence.

This form of procedural due process, within the framework of an educational environment, should reflect full appreciation and proper regard for constitutionally protected personal freedoms - speech, press, assembly and petition, under the first amendment, and equal protection of the laws under the fourteenth amendment. Such appreciation and regard, it seems to me, ought to minimize the number of charges and hearings that take place in schools.

Making student rights meaningful by proper provision for procedural due process applies largely to junior and senior high schools. But there are other rights, involving high school students, elementary school pupils and parents, that do not fall within the scope of constitutional protections whereby procedural due process is critically important. The rights that I refer to now are impaired by such untoward conduct on the part of public

servants as that which is responsible for misinformation, manipulation, incompetence and inefficiency, oppression, rudeness, delay, racism and sexism, torment and tyranny, some other abuse of authority or just plain bureaucratic bungling.

I would not expect to see any school district plagued with all of these injustices. But neither would I count on finding a district with none of them. It is in the nature of the beast--the bureaucratic beast--to cause the suffering of injustice. The question, therefore, becomes one of deciding upon the most appropriate action to reduce abuse and to provide for a remedy when it does occur.

My recommendation in this regard of the establishment of an education ombudsman/woman or, in the shorthand I prefer, an ed-om. Dating back to the Swedish Constitution of 1809, the role of the ombudsman is to serve as the citizen's representative in Government. In a school district the ed-om should be responsible to investigate and recommend appropriate action on complaints of injustice to students and parents arising out of operations of the district. The ed-om should also suggest changes in district policy, procedures and personnel indicated by patterns of complaints.

Two features are essential to the effective functioning of the ed-om: Accessibility and invulnerability. The ed-om must be readily available to students and parents, and clearly free from any influence by the Board of Education or members of the district staff. This underscores the importance of structure and funding, and I am inclined to favor an arrangement under which the professional services of the ed-om are provided by contract with the Board of Education.

It has been argued that a district with qualified administrators shouldn't need an ed-om, that members of the Board are responsible to handle citizen complaints, that teachers would never agree to the idea of an ed-om. There is some truth in all of this--but a little truth, like a little knowledge, can be dangerous. I believe that an institutional bureaucracy, the same as others, has inherent pathological tendencies which the ed-om can help to overcome. The mere presence of the ed-om will cause administrators (and others) to perform more responsively and responsibly. As far as the Board is concerned, the job does involve ombudsmanship, but not in terms that I have presented for the ed-om.

In my response to teachers I would call attention to their own progress in securing the protection of rights, and the elimination of injustice, through collective negotiations. Furthermore, the ed-om can be very helpful to teachers, and other staff members as well, by buffering off the groundless complaints of chronic cranks. Past experience has disclosed, incidentally, that the large majority of complaints do not call for any remedial action; an explanation to this effect coming from the ed-om will be received with more understanding than the same advice from someone suspected of having a vested interest to protect.

To make student rights meaningful, I rest my case on the need for significant action--action to establish DUP for students backed up by an ed-om.

But haven't I forgotten something? Oh yes, responsibilities. Well, let me suggest to you that the full flowering of student rights will lead inevitably to recognition of, and reaction to, student responsibilities. And this implies, of course, that students have the right to participate in the development of a code of conduct that spells out both rights and responsibilities. It is also essential that students participate in the decision-making processes that involve, for example, the design of curriculum as provided for in the statewide goals of New Jersey. Students should

also serve in an advisory capacity to Principals, Superintendents and Board of Education. And I would maintain that, just as school authorities are accountable for student rights, the responsibilities of students require their accountability for the consequences of individual action, conduct or behavior - whether 18 years of age or younger through further modification of the doctrine of in loco parentis.

In the final analysis, meaningful student responsibilities will depend upon meaningful educational programs conducted by well qualified teachers under the direction of unquestionably competent administrators. With respect to curriculum, I would urge the introduction of an element of law to penetrate the mysteries of the legal system under which our society is governed, this should include, for example, the first amendment provision of freedom of speech to enhance a student's understanding of the legal rights and limitations on expression. And through the study of selected court cases I can envision a significant learning experience related to the proper balance between fundamental personal freedoms and the legal right of school authorities to impose reasonable rules and regulations providing for the orderly operation of educational programs.

The matter of balance is also something to strive for in the strengths of various interest groups. In education, as elsewhere, the era of the authoritarian approach to human relations is over. We have moved into a period characterized basically by negotiations. Hopefully we shall move on in due course to collaboration, but meanwhile one must recognize that effective negotiations require a reasonable balance of strength between and among the parties concerned. Such a balance demands keen sensitivity to student rights as well as to student responsibilities.

At the outset I remarked that we ought to be concerned about where we should be going with student rights and responsibilities, how to get there, and the consequences of our failure to do so. And I have referred to the present time as one of frozen violence. It follows, in my thinking, that the failure to act constructively will find apathy yielding to rage and all of us confronted with Hobson's choice between repression and anarchy.

I feel sure that we share a commitment to the alternative of making student rights and responsibilities meaningful.

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